

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE - SE/Corner York & Monkon Roads (16925 York Road) 7th Election District 3rd Councilmanic District

\* BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 93-316-SPHXA

Donald B. Foster, et ux Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Donald B. and Anne E. Foster, and the Contract Purchasers, Bruce E. and Catherine M. Wisnom, daughter and son-in-law of the Petitioners. The Petitioners request a special hearing to approve the continuation of living quarters within a commercial building and to abandon the use permit for parking in a residential zone which was previously granted the Petitioners in Case No. 75-158-SPH. The Petitioners also request a special exception to permit a gross floor area of 14,013 sq.ft. for the existing buildings on the subject property, in lieu of the maximum permitted 8,800 sq.ft., pursuant to Section 259.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), and to permit a gross floor area of 11,839 sq.ft. on the first floors of said buildings, in lieu of the maximum permitted 6,600 sq.ft. on the ground floors, pursuant to Section 259.3.C.1.a of the B.C.Z.R. In addition to the special hearing and special exception relief sought, the Petitioners seek variances from the B.C.Z.R. as follows: From Section 259.3.C.2.a to permit a front yard setback of 3 feet and a side yard setback of 0 feet in lieu of the required 15 feet for each for the existing two-story brick building located on the northwest corner of the subject property, and a front yard setback

of 7 feet and a side yard setback of 11 feet in lieu of the required 15 feet for each for the existing 1 and 1/2 story frame dwelling; from Section 259.3.C.3.a and 3.b to permit a reduction in the amount of the required setback areas which must be landscaped to range from 0 feet to a maximum of 10 feet in lieu of the requirement to landscape the entire front, rear and side setbacks, and to permit the parking configuration as shown on the plan for purposes of maneuvering delivery trucks on the subject site; from Section 259.3.C.4 which requires that parking must be accessible to the parking lots of adjacent non-residential uses and zones; from Section 409.8.A.2 to allow a stone or gravel surface for portions of the parking lot to the rear (east side) of the existing hardware store building in lieu of the required paved surface; from Section 409.6.A.2 to permit 67 parking spaces in lieu of the required 82; and from Section 413.2.e to permit an identification sign not to exceed 230 sq.ft. (total both sides) in lieu of the maximum permitted 150 sq.ft. The relief requested is more particularly described on the plat submitted with the Petitions filed and identified herein as Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Donald B. Foster, property owner, and his son-in-law, Bruce R. Wisnom, Contract Purchaser/Lessee. The Petitioners were represented by Jerome G. Geraghty, Esquire. Also appearing on behalf of the Petitions were James S. Patton, Professional Engineer, Donald R. Kann, Architect, Donald E. Pearce, President of the Hereford Community Association, and K. Lee Riley, Jr., President of the Greater Sparks-Glencoe Community Council. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 16925 York Road, consists of a gross area of 74,415 sq.ft. zoned B.M.-C.R., and

is improved with a two-story brick and frame building currently used as a retail florist and gift shop, a one-story brick and block building housing a True Value hardware store, and a one and one-half story frame dwelling with office space. All of the subject improvements are part of the business operation known as Foster Brothers Hardware.

Donald Foster testified that he has operated the Foster Brothers Hardware store from the subject location for the past 48 years. He stated that his father opened the business on this site in 1929 and that he took over daily operations from his father when he returned from World War II. He testified that the dwelling is used for residential purposes and is currently occupied by the Petitioner's brother, who is 82 years of age and is a part-time employee of the family business and overseer of the subject property. The Petitioner is in the process of turning over the business to his daughter and son-in-law who wish to expand the existing hardware store building with a one-story addition and adjacent outside retail sales area, in accordance with Petitioner's Exhibit 1, to provide more retail space. The one-story addition will include a basement for additional storage space.

Bruce Wisnom, the Petitioner's son-in-law, testified concerning the proposed improvements and the need to expand the hardware store. He testified that they have experienced rapid growth in this area and that their store simply does not have enough space to display all of the merchandise they carry. Mr. Wisnom testified concerning the amount of business which takes place at this site and the approximate number of customers who are in the store at any one time. As to the parking variance requested, Mr. Wisnom testified that there may only be 20 to 25 customers

in the store at any one time and that the 67 parking spaces proposed are more than adequate to serve their needs.

Donald Kann, who was accepted as an expert architect, testified concerning the proposed improvements to the site. Mr. Kann testified that in his opinion, the relief requested satisfies the requirements of Section 502.1 of the B.C.Z.R. and will not result in any detriment to the health, safety or general welfare of the surrounding community.

James Patton, who was accepted as an expert engineer, testified concerning the layout of the property and the proposed improvements intended to be made by the Petitioners. Mr. Patton testified that it is the desire of the Petitioners to provide as much pervious surface on the site as possible. Along these lines, the Petitioners propose to provide 18 gravel parking spaces on the easternmost property line of this site in lieu of the required macadam paving. This would allow for more pervious surface and, according to the testimony of Mr. Patton, would assist in storm water runoff. The Petitioners also intend to provide 9 additional parking spaces along the southern property line. However, at the present time, the Petitioners would rather leave this area as grass. The parking spaces will be shown on the plan and set aside for future use in the event the Petitioners find it necessary to provide parking in this area. The Petitioners' parking proposal as set forth above was strongly supported by the Sparks-Glencoe Community Council, by and through its President, Lee Riley, who appeared and testified. This proposal was also favored by Jeffrey Long of the Office of Planning and Zoning who appeared at the hearing to offer his support.

In view of the foregoing, I believe it would be in the best interests of the community to permit the 18 parking spaces along the eastern-

most property line to remain as a gravel surface as proposed and the 9 spaces to be located on the southern property line to remain in their grassy state for the present time. In the event the Petitioners decide to utilize those 9 spaces, the Petitioners will make the necessary improvements as required to provide adequate parking for their customers.

As previously stated, Lee Riley appeared and testified on behalf of the Sparks-Glencoe Community Council. Mr. Riley voiced concern regarding the overall square footage of the existing buildings on this site. He stated that given the relief requested in the special exception to permit more square footage than allowed for the subject buildings, he is concerned that should one of the two smaller buildings located on York Road be removed in the future, the square footage associated with that building would be transferred to the larger hardware store building. It was the position of the Sparks-Glencoe Community Council that they would not support such a transfer. With this position I agree. While I am inclined to grant the special exception to permit the gross floor area as proposed, I shall restrict same to the improvements as shown on Petitioner's Exhibit 1. That is, the Petitioners shall be prohibited from transferring in any fashion any of the square footage associated with either of the two smaller buildings located on York Road to the hardware store building. In the event either of these two buildings must be removed in the future, the square footage associated with that building will be lost forever.

It should be noted that two of the three existing structures do not conform to current setback requirements as their construction predates the Baltimore County Zoning Regulations. The majority of the relief requested is necessary as a result of existing conditions on the property. As indicated on the Petition for Variance, the relief requested

is necessary in order to provide for a functional parking and servicing arrangement. The total required parking cannot be obtained on the lot and at the same time provide for the continuation of this facility and meet the objectives of the Hereford Community Plan.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested were not granted. It has been established that the special hearing and special exception relief sought is necessary due to pre-existing conditions and that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

It is clear that the B.C.Z.R. permits the use proposed in a B.M.-C.R. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a spe-

cial exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, the use proposed will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 25<sup>th</sup> day of May, 1993 that the Petition for Special Hearing to approve the continuation of living quarters within a commercial building and to abandon the use permit for parking in a residential zone previously granted in Case No. 75-158-SPH, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a gross floor area of 14,013 sq.ft. for all existing buildings on the subject property, in lieu of the maximum permitted 8,800 sq.ft., pursuant to Section 259.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), and to permit a gross floor area of 11,839 sq.ft. on the first floors of said buildings, in lieu of the maximum permitted 6,600 sq.ft. on the ground floors, pursuant to Section 259.3.C.1.a of the B.C.Z.R., be and is hereby GRANTED, subject to the restrictions set forth below; and,

IT IS FURTHER ORDERED that the Petition for Variance requesting relief from the B.C.Z.R. as follows: From Section 259.3.C.2.a to permit a front yard setback of 3 feet and a side yard setback of 0 feet in lieu of the required 15 feet for each for the existing two-story brick building located on the northwest corner of the subject property, and a front yard setback of 7 feet and a side yard setback of 11 feet in lieu of the required 15 feet for each for the existing 1 and 1/2 story frame structure; from Section 259.3.C.3.a and 3.b to permit a reduction in the amount of the required setback areas which must be landscaped to range from 0 feet to a maximum of 10 feet in lieu of the requirement to landscape the entire front, rear and side setbacks, and to permit the parking configuration as



shown on the plan for purposes of maneuvering delivery trucks on the subject site; from Section 259.3.C.4 which requires that parking must be accessible to the parking lots of adjacent non-residential uses and zones; from Section 409.8.A.2 to allow a stone or gravel surface for portions of the parking lot to the rear (east side) of the existing hardware store buildings in lieu of the required durable and dustless surface; from Section 409.6.A.2 to permit 67 parking spaces in lieu of the required 82; and from Section 413.2.e to permit an identification sign not to exceed 230 sq.ft. total in lieu of the maximum permitted 150 sq.ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Petitioners shall comply with the Zoning Plans Advisory Committee comments submitted by the Department of Environmental Protection and Resource Management (DEPRM) dated April 7, 1993.
- 3) The Petitioners shall submit a landscape plan for review and approval by the Landscape Architect for Baltimore County prior to the issuance of any permits. Said plan shall, at a minimum, be consistent with the landscaping shown on the site plan and the variance relief granted herein.

IT IS FURTHER ORDERED that the Petitioners shall be permitted to provide a gravel parking surface for the 18 parking spaces to be located on the easternmost portion of the subject property; and, IT IS FURTHER ORDERED that the Petitioners shall be permitted to keep the 9 parking spaces shown on the site plan on the southern property

- 9 -

line as with a grassy surface and not utilized for parking at this time. In the event the Petitioners' business demands additional parking, the Petitioners will be required to improve the 9 parking spaces in the appropriate manner; and,

IT IS FURTHER ORDERED that the gross floor area associated with the two smaller buildings located along York Road shall not be transferred to any other building on site. In the event either of these two buildings are removed from the property, the square footage associated with those buildings shall be eliminated.

TMK:hjs

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

- 10 -

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 25, 1993

(410) 887-4386

Jerome G. Geraghty, Esquire  
1200 Sun Life Building  
20 S. Charles Street  
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE  
SE/Corner York and Monkton Roads  
(16925 York Road)  
7th Election District - 3rd Councilmanic District  
Donald B. Foster, et ux - Petitioners  
Case No. 93-316-SPHXA

Dear Mr. Geraghty:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:hjs

cc: Mr. & Mrs. Donald B. Foster  
17101 Big Falls Road, Monkton, Md. 21111

Mr. & Mrs. Bruce E. Wisnom  
16925 York Road, Monkton, Md. 21111

Mr. K. Lee Riley, Jr., President, Sparks-Glencoe Community Council  
P.O. Box 396, Sparks, Md. 21152

People's Counsel; File

Petition for Special Exception  
93-316-SPHXA  
to the Zoning Commissioner of Baltimore County

for the property located at 16925 York Road, Hereford

which is presently zoned B.M.-C.R.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

A Special Exception is requested in accordance with Section 259.3B.3. to permit a gross floor area of 14,013 square feet for all buildings on the lot in lieu of the allowed maximum floor area of 8800 square feet and to permit a gross floor area of 11,839 square feet on the first floors of those buildings in lieu of the allowed 6600 square feet on the ground floors (Section 259.3C.1.a.)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee:

Bruce E. Wisnom & Catherine M. Wisnom

*Bruce E. Wisnom, Catherine M. Wisnom*

16925 York Road-York & Monkton

Monkton MD 21111

Attorney for Petitioner:

Jerome G. Geraghty

*Jerome G. Geraghty*

1200 SunLife Bldg., 20 S. Charles St.

Baltimore, MD 21201

Legal Owner(s):

Donald B. Foster, both parcels

*Donald B. Foster*

Anne E. Foster

*Anne E. Foster*

17101 Big Falls Rd.

Monkton MD 21111

Bruce E. Wisnom, Foster Bros. Hardware

16925 York Rd. (410) 343-0700

Monkton, MD 21111

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Next Two Months

REVIEWED BY: *gjd* DATE: 3-16-93

Petition for Variance  
93-315-SPHXA  
to the Zoning Commissioner of Baltimore County

for the property located at 16925 York Road, Hereford

which is presently zoned B.M.-C.R.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 259.3.C.2.a, 259.3C.3.a., 259.3C.4, 409.8A.2, and 409.6A.2, and 413.2.e. See attached sheet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty). Two of the three structures on the property do not conform to setback(s) as their construction pre-dates Baltimore County zoning; "to provide for a functional parking and servicing arrangement, the total required parking cannot be obtained on the lot and at the same time provide for the continuation of this facility and meet the objectives of the community plan.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee:

Bruce E. Wisnom & Catherine M. Wisnom

*Bruce E. Wisnom, Catherine M. Wisnom*

16925 York Road-York & Monkton

Monkton MD 21111

Attorney for Petitioner:

Jerome G. Geraghty

*Jerome G. Geraghty*

1200 SunLife Bldg., 20 S. Charles St.

Baltimore, MD 21201

Legal Owner(s):

Donald B. Foster, both parcels

*Donald B. Foster*

Anne E. Foster

*Anne E. Foster*

17101 Big Falls Rd.

Monkton MD 21111

Bruce E. Wisnom, Foster Bros. Hardware

16925 York Rd. (410) 343-0700

Monkton, MD 21111

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Next Two Months

REVIEWED BY: *gjd* DATE: 3-16-93

VARIANCE REQUESTED

Section 259.3.C.2.a.

To permit for the 2-story brick building on the northeast corner, an existing front yard of 3 feet in lieu of the required 15 feet, and an existing side yard of 0 feet, and for a 1-1/2 story existing frame structure, an existing front yard of 7 feet, in lieu of the required 15 feet and an existing side yard of 11 feet in lieu of the required 15 feet.

Section 259.3C.4.b.

To permit a reduction in the amount of the required setback areas which must be landscaped to range from 0 feet to a maximum of 10.0 feet in lieu of the requirement to landscape the entire front, rear, and side setbacks. To permit the parking configuration as shown for purposes of maneuvering delivery trucks on the site.

FIRE CO.

Section 259.3C.4

A variance from the requirement that parking must be accessible to the parking lots of adjacent non-residential uses and zones.

Section 409.8A.2

A variance to accept a stone or gravel surface for portions of the parking lot to the rear, (east side) of the hardware store buildings as a suitable surface.

Section 409.6A.2

A variance to permit 67 parking spaces in lieu of the required 82 spaces.

Section 413.2.E.

To permit an identification sign not to exceed 230 sq. ft. (total both sides) in lieu of the allowed 150 sq. ft. in area.

SPECIAL HEARINGS REQUESTED

Special Hearing to allow for living quarters within a commercial building. To abandon the permit to park in a residential zone as quasi-granted under Special Hearing 75-158; and to find that proposed development is in compliance with site design lines and performance standards for the Hereford plan.

APPROVALS



Petition for Special Hearing  
93-316-SPHXA  
to the Zoning Commissioner of Baltimore County

for the property located at 16925 York Road, Hereford

which is presently zoned B.M.-C.R.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve:

The continuation of living quarters within a commercial building and to abandon the permit to park in a residential zone, as previously granted under Special Hearing 75-158.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee:

Bruce E. & Catherine M. Wisnom

*Bruce E. Wisnom, Catherine M. Wisnom*

16925 York Road-York & Monkton

Monkton MD 21111

Attorney for Petitioner:

Jerome G. Geraghty

*Jerome G. Geraghty*

1200 SunLife Building, 20 S. Charles St.

Baltimore, MD 21201

Legal Owner(s):

Donald B. Foster, both parcels

*Donald B. Foster*

Anne E. Foster

*Anne E. Foster*

17101 Big Falls Rd.

Monkton MD 21111

Bruce E. Wisnom, Foster Bros. Hardware

16925 York Road, 410-343-0700

Monkton, MD 21111

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Next Two Months

REVIEWED BY: *gjd* DATE: 3-16-93

Patton Consultants, Ltd.

93-316-SPHXA

305 West Chesapeake Avenue • Suite 118 • Towson, MD 21204  
(410) 296-2140 • FAX (410) 296-0419

ZONING DESCRIPTION(S)

FOR

16925 YORK ROAD

Variance(s), Special Exception & Special Hearing Petitions

Beginning at a point of the east side of York Road which is sixty-six (66) feet wide and at a distance twelve (12) feet South of the centerline of the nearest improved intersecting street, Monkton Road, which is twenty-four (24) feet wide. Thence, the following courses and distances:

North 84° 51' 17" East, 214.66 ft.  
South 05° 31' 40" East, 10.81 ft.  
North 85° 41' 12" East, 128.00 ft.  
South 01° 35' 08" East, 197.40 ft.  
South 82° 09' 39" West, 156.06 ft.  
North 04° 18' 06" West, 38.75 ft.  
South 87° 19' 23" West, 181.01 ft.  
North 03° 13' 56" West, 170.58 ft.

To the place of beginning. As recorded in Deed Liber 5334, Folio 368 and Deed Liber 7734, Folio 458, containing 1.47 acres. Also known as 6921 and 16925 York Road and located in the 7th Election District.



Site Evaluation • Land Development Consulting • Expert Testimony • Zoning





## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: April 6, 1993

SUBJECT: 16925 York Road

## INFORMATION:

Item Number: 319

Petitioner: Foster Brothers Hardware

Property Size: \_\_\_\_\_

Zoning: B.M.-C.R.

Requested Action: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

## SUMMARY OF RECOMMENDATIONS:

Based upon a review of the applicant's request, staff offers the following comments:

The Master Plan acknowledges the role of Hereford as a Rural Town Center and encourages growth provided that the character unique to the town is enhanced and any development is environmentally sound.

The Commercial Rural District was adopted by the County Council on July 5, 1988. The C.R. overlay district regulations allow for development provided that it can be supported by the environment, protect historic features and improve the aesthetic quality of rural commercial development.

The applicant's parcel is located within the boundaries of the Hereford commercial district which was established based on existing land use, site accessibility, environmental constraints and existing zoning characteristics.

The subject request is consistent with the Hereford Plan's objective to maintain the compact nature of Hereford. In order to accomplish this goal, the plan recommends no future commercial expansion to the north or south along York Road. One of the actions of the Hereford Plan states, "Concentrate commercial zoning for the northern area in Hereford or other rural villages. Discourage commercial zoning along roads outside of these areas."

319.ZAC/ZAC1

Pg. 1

Foster Brothers Hardware has served Hereford for many years and the applicant's proposed addition and requested Variances are generally consistent with the Hereford Plan. Therefore, this office is supportive of this request. Should the relief be granted, staff recommends the applicant meet with the deputy director of the Office of Planning to discuss future landscape treatment of the property.

Prepared by: Jeffrey W. LongDivision Chief: Carol Lewis

PK/JL:lw

319.ZAC/ZAC1

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## BALTIMORE COUNTY, MARYLAND

## DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

## INTER-OFFICE CORRESPONDENCE

April 7, 1993

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

FROM: J. Lawrence Pilson JLP  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #319  
Foster Property; 16925 York Road  
Zoning Advisory Committee Meeting of March 29, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. Compliance with Forest Conservation Act will be required.
2. Satisfactory soils evaluation tests must be conducted and revised plans must be approved by DEPRM.
3. A water balance assessment may be required.
4. All existing and proposed septic system and septic reserve areas need to be shown and labeled, including the gift shop, the dwelling on site and adjacent wells and septic within 100' of the property line.
5. Any existing underground storage tanks must be shown, or a note indicating if there are none.
6. The well closest to York Road will be located in a parking space.
7. Stormwater management must be addressed.
8. The stone and gravel parking lot has existed for several years. It is used only for parking and an occasional delivery truck, with no "through" traffic. The owner would be responsible for treating this surface in an appropriate manner if a dust problem should occur in the future.

JLP:jbm

FOSTER2/TXTRMP

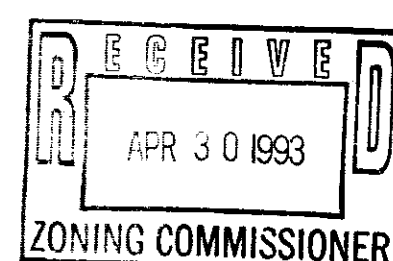
BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF RECREATION & PARKS

Zoning Advisory Committee Comments  
relating to agenda of 3/29/93

The Department of Recreation and Parks submits a reply of "NO COMMENT" for the following item numbers:  
\* 314, \* 315, \* 316, \* 317, \* 319, \* 320, \* 321, \* 322,  
\* 324

There are no other items on the agenda aside from the above.

Patrick J. McDougall  
Master Plan Coordinator



MR. SPARKS-GLENCREE COMMUNITY COUNCIL  
1000 Glenview Ave. #20  
Sparks, Maryland 21152

April 28, 1993

RECEIVED  
APR 28 1993  
ZADM

Dear Mr. Jablon:

I am writing to you regarding the request for a Special Exception for the expansion of the Foster Brothers Hardware store at 16925 York Road. The request was presented to the Hereford Community Association on March 9, 1993, and they voted in favor of the request. I am forwarding this information to you for your review and recommendation.

I am also forwarding to you a copy of the report prepared by the staff of the Office of Planning and Zoning. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993. I am also forwarding to you a copy of the report prepared by the staff of the Department of Environmental Protection and Resource Management. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993.

I am also forwarding to you a copy of the report prepared by the staff of the Department of Recreation and Parks. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993.

I am also forwarding to you a copy of the report prepared by the staff of the Department of Public Works. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993.

I am also forwarding to you a copy of the report prepared by the staff of the Department of Transportation. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993.

I am also forwarding to you a copy of the report prepared by the staff of the Department of Public Safety. The report contains the staff's recommendations and the results of the public hearing held on March 29, 1993.

Sincerely,

Jeffrey W. Long  
Deputy Director

Office of Planning and Zoning  
Baltimore County Government  
301 West Chesapeake Avenue  
Towson, MD 21204

HEREFORD COMMUNITY ASSOCIATION  
P.O. BOX 180 MONKTON, MD 21111

April 27, 1993

Mr. Arnold Jablon, Director  
Baltimore County Government  
Office of Zoning Administration  
111 West Chesapeake Avenue  
Towson, MD 21204

Dear Mr. Jablon:

The Hereford Community Association, at its regular public meeting on March 9, 1993, with 45 members in attendance, voted unanimously to support the request for variance submitted by Foster Brothers Hardware. The owner, along with his architect and site engineer, presented their plans for the expansion of their current place of business and fully described the variances required for this project. After a thorough discussion of the parking, setback and building size variances to the Hereford Community Plan, the members voted to accept each variance condition.

The hardware store is the only such facility in the northern portion of Baltimore County and provides a valuable service not only to Hereford but the surrounding communities. The expansion plan presented will increase the level of service provided to the community and desired by our association members. In addition, the architectural design blends nicely with our community and will add to the success of developing Hereford as the commercial center for northern Baltimore County.

Sincerely,

Donald E. Pearce  
Donald E. Pearce  
President  
Hereford Community Association

RECEIVED  
APR 28 1993  
ZADM

THE PRINCIPLE VOICE OF THE HEREFORD COMMUNITY

Patton Consultants, Ltd.

305 West Chesapeake Avenue • Suite 118 • Towson, MD 21204  
(410) 296-2140 • FAX (410) 296-0419

March 16, 1993

Mr. Lawrence E. Schmidt  
Zoning Commissioner  
Baltimore County  
Office of Planning & Zoning  
401 Bosley Ave.  
Towson, MD 21204

RE: FOSTER BROTHERS HARDWARE  
Special Exception Request In a CR District  
(BCZR Section 259.3E)  
Our Project No. 9240

Dear Mr. Schmidt:

Please consider this a supplement to the petition for a Special Exception for the expansion of the Foster Brothers Hardware at the intersection of York and Monkton Road in Hereford. In accordance with Baltimore County Zoning regulations Section 259.3E. There are "additional requirements for the granting of a special exception in a CR District". As stated in this section, in addition to the requirements generally imposed in the issuance of special exceptions by Section 5.02.1, "the following requirements shall apply to the granting of special exceptions in CR districts."

The following information is submitted in support of these requirements.

1. "The petitioners shall document the need for the development at the proposed location."

The petition submitted is for the expansion of an existing facility at this site. Foster Brothers Hardware has been located at this site since the 1930's. The continuing viability of this operation is documented by the patronage of the facility and the service it provides to the community.

As the Hereford community has expanded, so to, has the need for expansion of this general hardware store. The strong support of the Hereford Community Association, Councilman Dutch Ruppertsberger, and the County planning staff further demonstrate the need for the expansion of Foster Brothers Hardware store at this location.

Site Planners and Engineers  
Site Evaluation • Land Development Consulting • Expert Testimony • Zoning

Page Two  
Mr. Lawrence Schmidt  
March 16, 1993

2. The plan for the expansion of Foster Brothers Hardware takes into account the existing and proposed roads, Monkton Road and York Road, the topography of the site, the existing vegetation, soil types and the configuration of the site. The site plan for the site provides a sensitive solution to accommodate the existing configuration of the site. No slopes exist on the site which are in excess of 25% which were not created by the previous expansion to the facility. Based on the site plan proposed, with the removal of existing structures and those areas being landscaped, there will be minimum disturbance to vegetated areas. There are no wetlands or streams on the site. With the proposed construction there will not be excessive erosion and sediment loss, nor will there be undue site disturbance. Due to the soil types, infiltration is not feasible on the site. However, underground storm water management facilities will provide a certain amount of infiltration prior to discharge from the site which will be decentralized.
3. Architecturally or historically significant buildings will be preserved and integrated into the site plan. In particular the residence which is at the southeast corner of York and Monkton Road will be preserved, and in fact, additions which have occurred over the years which are not architecturally or historically significant will be removed to enhance the appearance of this structure and the site plan. The proposed expansion of the hardware store itself will be in keeping with the character of the two historically significant buildings which presently exist on the site.
4. The proposed addition to the building is sited to protect the scenic view from the public roads. With the addition of the landscaping in the 10' landscaped buffer areas and the changes to the roof lines, location of entrances and the removal of existing storage structures on the site all will enhance the scenic view from both Monkton and York Road.

Based on the proposed site plan and the landscape buffering around the perimeter of the site, in particular along the Monkton Road and York Road frontages, the open space will actually be increased thereby enhancing the enjoyment and visual quality of the site.

Page Three  
Mr. Lawrence Schmidt  
March 16, 1993

5. The proposed development is a continuation and expansion of an existing use which has not been detrimental to the neighboring uses and the tranquility of the rural area. There are no anticipated changes to the site which would result in a nuisance or air pollution from dust, fumes, vapors, gases, or odors.

I respectfully suggest that the requirements of the above can be met, and the requested petitions and site plan fulfill the spirit and intent of this section. The above statements are not final and conclusive. At the time of the hearing on this petition, we respectfully reserve the right to submit additional information in support of these requirements.

Sincerely yours,

PATTON CONSULTANTS, LTD.

James S. Patton, P.E.  
President

/jd

cc: Jerome Geraghty, Esquire

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Donald B. Foster	17111 Big Falls Rd. Monkton, MD 21111
Bruce E. Whinnom	19007 Tyson Road White Hall, MD 21164
John E. Long	603 Stone Hill Rd. Towson, MD 21204
Donald R. Kamm	519 W. Pratt St. Baltimore, MD 21201
Jim Patton	305 W. Chesapeake Ave. Towson, MD 21204

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Bruce E. Whinnom	19007 Tyson Road White Hall, MD
Jerome G. Geraghty	1200 Sun Life Bldg. 21201
James S. Patton	305 W. Chesapeake Ave. Towson, MD 21204
Donald E. Kamm	922 Zent General Rd. Parkville, MO 64154
Donald R. Kamm	17111 Big Falls Rd. Monkton, MD 21111
Donald R. Kamm	519 W. Pratt St. Baltimore, MD 21201

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL  
Post Office Box 396  
Sparks, Maryland 21152

## PETITIONER'S EXHIBIT 3

May 10, 1993

Mr. Timothy M. Kotroco  
Deputy Zoning Commissioner  
Zoning Commissioner Office of Baltimore County  
400 Washington Avenue  
Towson, Maryland 21204

RE: Foster Brothers Hardware (Item No. 319)

Dear Mr. Kotroco:

I am writing on behalf of the Greater Sparks-Glencoe Community Council ("GSGCC") with regard to the above-referenced application for certain zoning variances and special exceptions (the "Project") to inform you that, based upon extended conversations with the applicant and a thorough review of the proposal, GSGCC does not oppose the Project. In addition, we feel that the applicant has made commendable efforts in his attempt to balance the economic realities of this proposed commercial expansion with the historical and environmental concerns of many area residents. Please note, however, that GSGCC feels compelled to address certain issues in connection with the Project.

With regard to the variance request as to the number of durable and dustless parking spaces (67 parking spaces in lieu of the required 82 spaces), we recognize that any fewer spaces would increase the deviation from the regulatory requirement; however, we ask the Zoning Commissioner (the "Commissioner") to consider further reducing the number of spaces required in consideration of storm water management and well recharge area problems created by the high percentage of impervious surface to the property. We have discussed with the applicant the alternatives of either preserving a certain number of spaces as undeveloped area or surfacing certain portions of the parking area with gravel on the South and East sides of the lot. On balance, we feel that either alternative would be preferable to mandating that all spaces be surfaced with black-top from the standpoint of storm water management, particularly in light of the fact that the nature of this business is such that fewer spaces will be required due to quick customer turn-over.

Mr. Timothy M. Kotroco  
May 10, 1993  
Page -2-

The square footage of the Project (14,013 square feet) remains a concern to GSGCC. We note that the total figure includes the combined square footage of both structures nearest to and facing York Road and we understand that the applicant does not intend at any time in the foreseeable future to remove either of those buildings. In fact, we enthusiastically support the proposed renovations to the historically significant structure on the North-West corner of the lot. In light of these considerations, we ask that the Commissioner consider restricting the square footage such that, if either or both of these structures are wholly or substantially removed or proposed to be substantially altered, then the allowed square footage of the Project shall be reduced by the amount of commercial square footage attributable to such structure or structures. The intent of this restriction is to preserve the existing structures, as proposed by the applicant. This restriction should be written into the order of the Commissioner so as to ensure compliance by subsequent owners.

If you have any questions, or wish to discuss this matter further, please do not hesitate to call me at 385-4260.

Sincerely,

*K. Lee Riley, Jr.*  
K. Lee Riley, Jr.  
President, Greater Sparks-Glencoe Community Council

KLR/jbc

cc: Officers of GSGCC

1319372 m  
4128 256 04

HEREFORD COMMUNITY ASSOCIATION  
P.O. BOX 180 MONKTON, MD 21111

April 27, 1993

Mr. Arnold Jablon, Director  
Baltimore County Government  
Office of Zoning Administration  
111 West Chesapeake Avenue  
Towson, MD 21204

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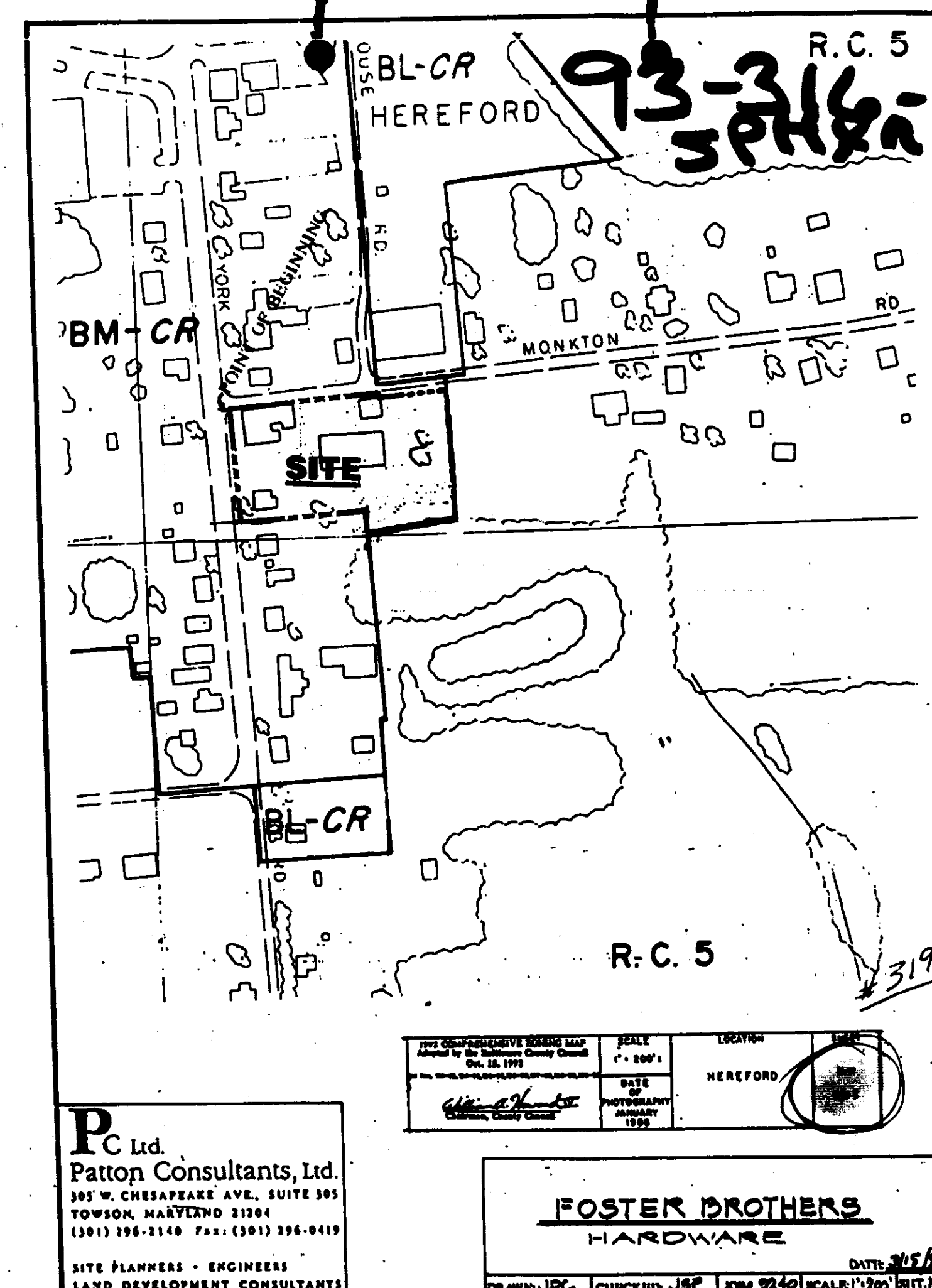
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Sincerely,

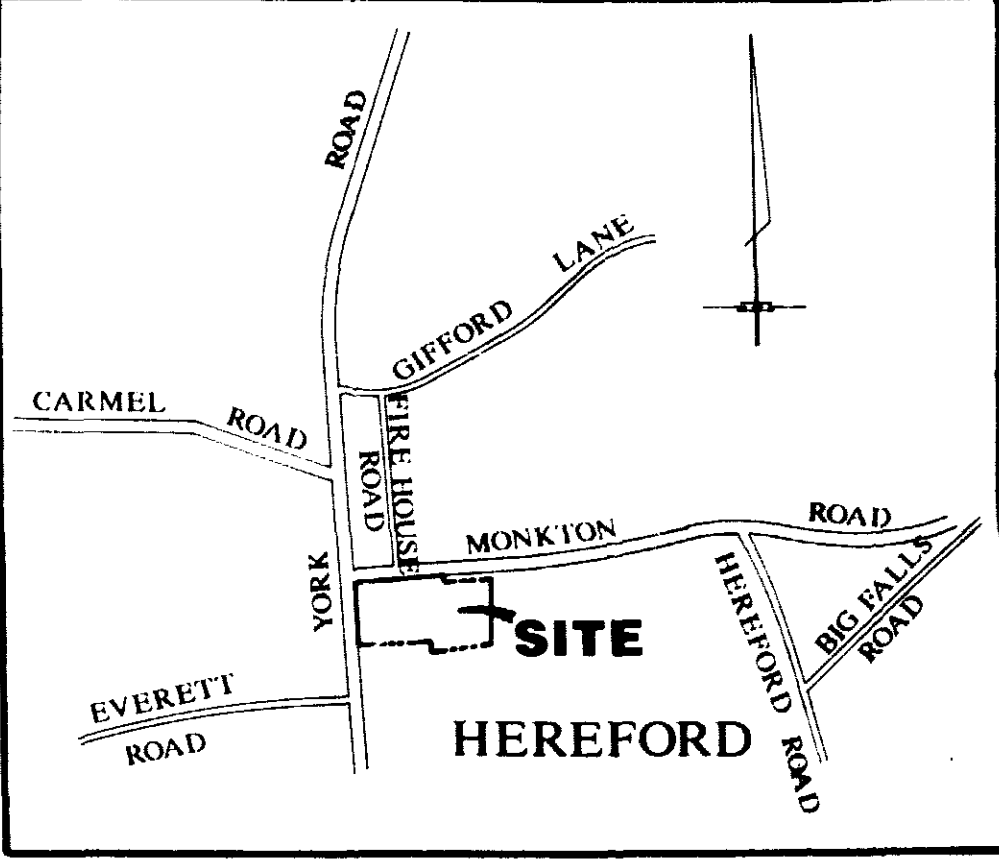
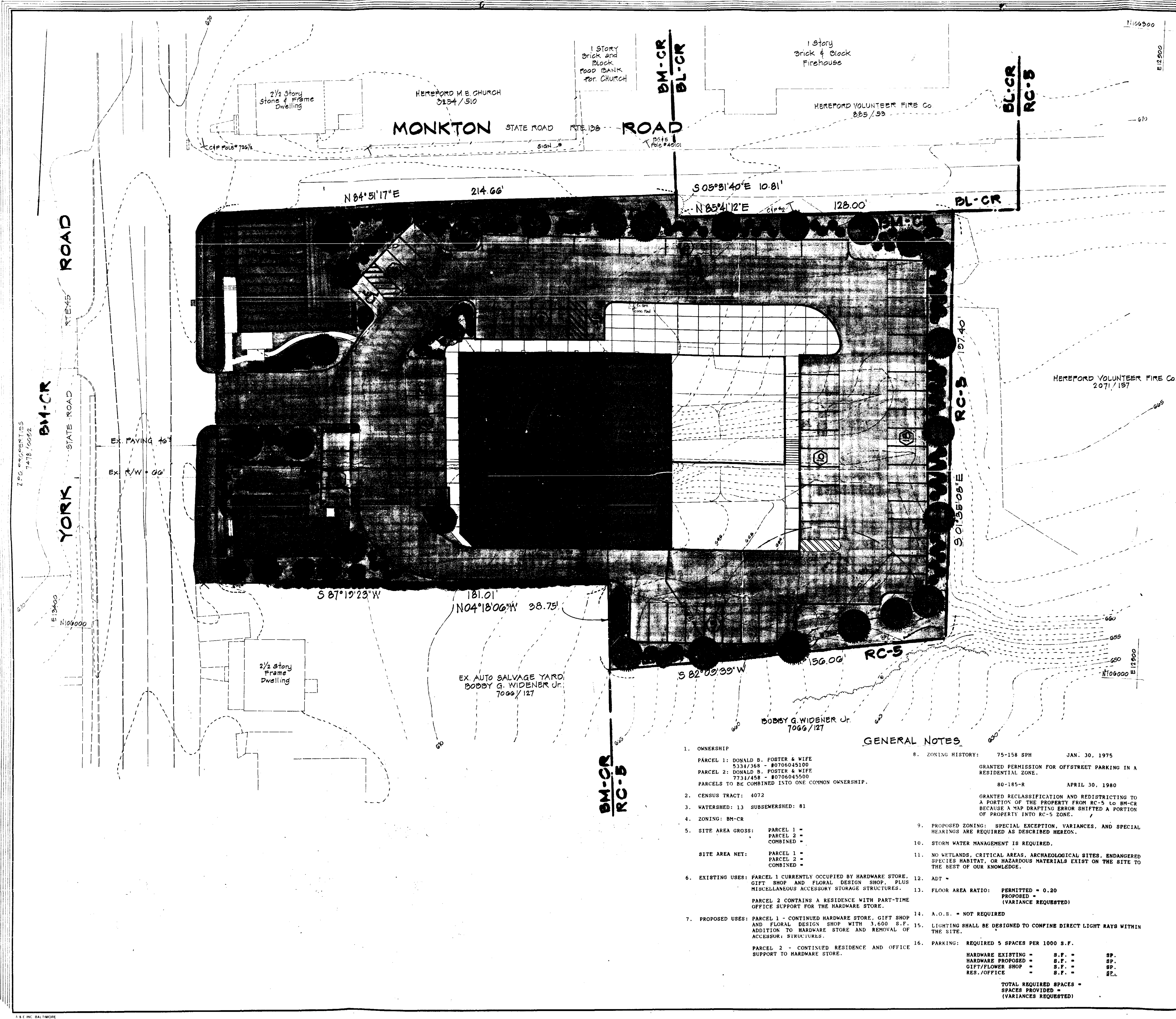
*Donald E. Pearce*  
Donald E. Pearce  
President  
Hereford Community Association

## PETITIONER'S EXHIBIT 4

THE PRINCIPLE VOICE OF THE HEREFORD COMMUNITY







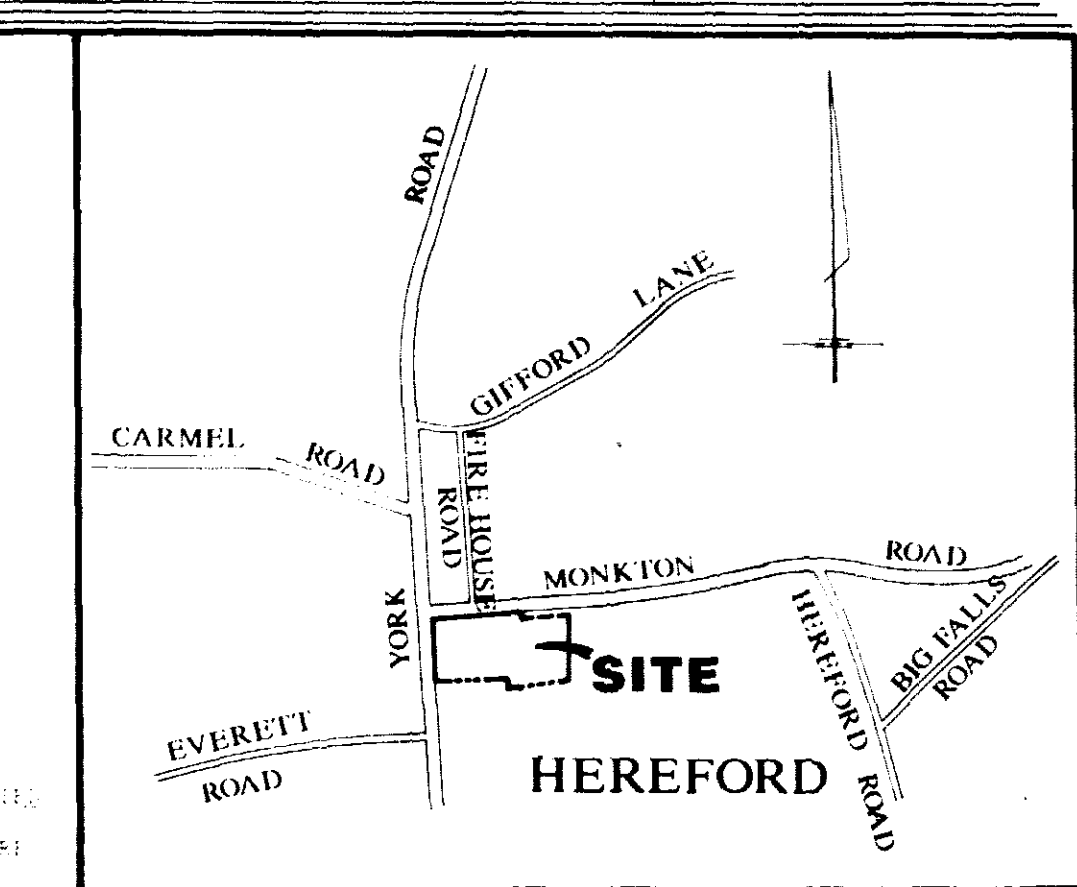
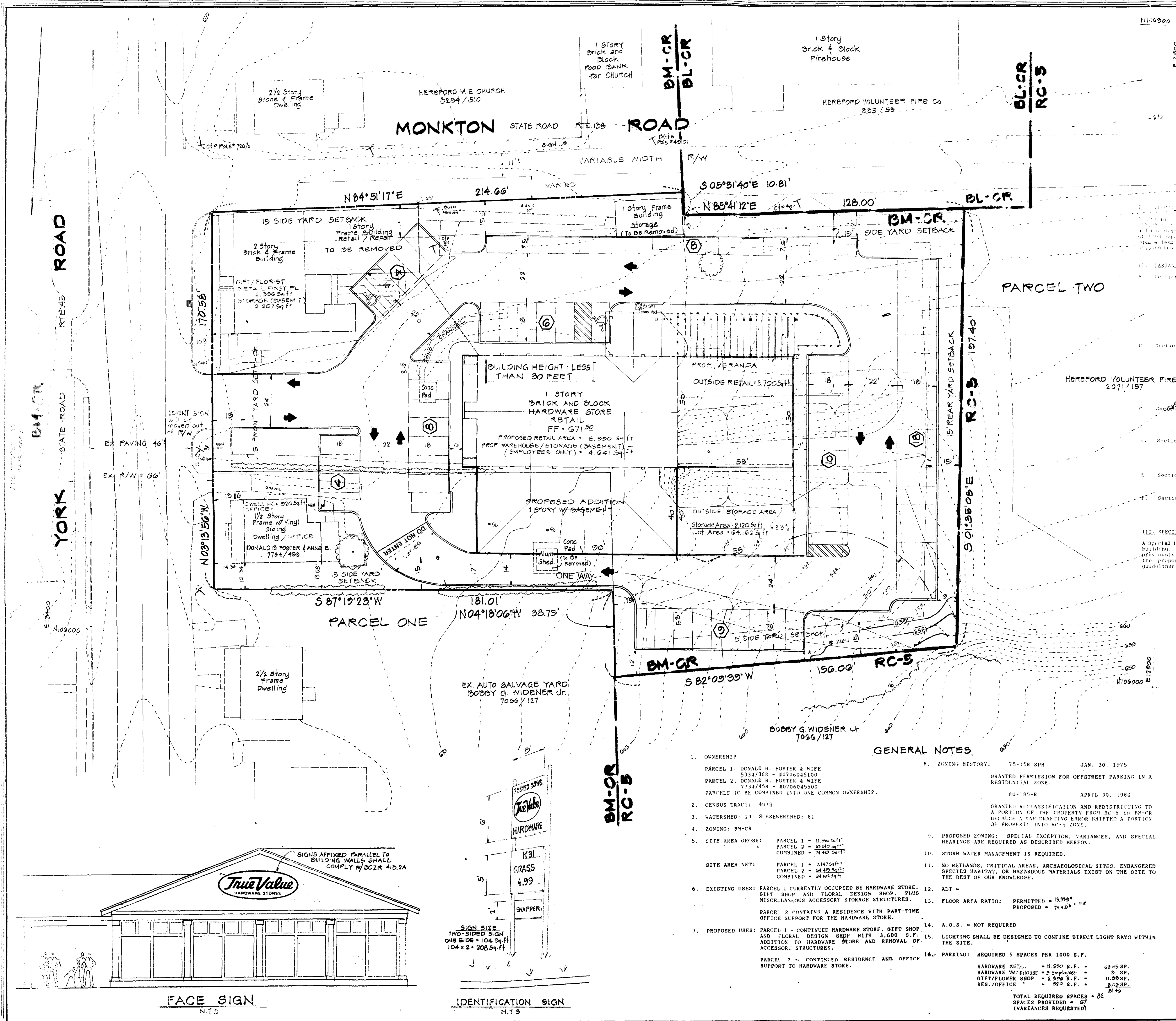
LOCATION PLAN  
Scale: 1"=500'

**PETITIONER'S EXHIBIT #1**

- GENERAL NOTES**
- OWNERSHIP  
PARCEL 1: DONALD B. FOSTER & WIFE  
5334/368 - 80706045100  
PARCEL 2: DONALD B. FOSTER & WIFE  
7733/458 - 80706045500  
PARCELS TO BE COMBINED INTO ONE COMMON OWNERSHIP.
  - CENSUS TRACT: 4072
  - WATERSHED: 13 SUSSEMERSHED: 81
  - ZONING: BM-CR
  - SITE AREA GROSS: PARCEL 1 =  
PARCEL 2 =  
COMBINED =
  - SITE AREA NET: PARCEL 1 =  
PARCEL 2 =  
COMBINED =
  - EXISTING USES: PARCEL 1 CURRENTLY OCCUPIED BY HARDWARE STORE, GIFT SHOP, AND FLORAL DESIGN SHOP, PLUS MISCELLANEOUS ACCESSORY STORAGE STRUCTURES.  
PARCEL 2 CONTAINS A RESIDENCE WITH PART-TIME OFFICE SUPPORT FOR THE HARDWARE STORE.
  - PROPOSED USES: PARCEL 1 - CONTINUED HARDWARE STORE, GIFT SHOP AND FLORAL DESIGN SHOP WITH 3,600 S.F. ADDITION TO HARDWARE STORE AND REMOVAL OF ACCESSORY STRUCTURES.  
PARCEL 2 - CONTINUED RESIDENCE AND OFFICE SUPPORT TO HARDWARE STORE.
  - ZONING HISTORY: 75-158 SPH JAN. 30, 1975  
GRANTED PERMISSION FOR OFFSTREET PARKING IN A RESIDENTIAL ZONE.  
80-185-R APRIL 30, 1980  
GRANTED RECLASSIFICATION AND REDISTRICTING TO A PORTION OF THE PROPERTY FROM RC-5 TO BM-CR BECAUSE A MAP DRAFTING ERROR SHIFTED A PORTION OF PROPERTY INTO RC-5 ZONE.
  - PROPOSED ZONING: SPECIAL EXCEPTION, VARIANCES, AND SPECIAL HEARINGS ARE REQUIRED AS DESCRIBED HEREON.
  - STORM WATER MANAGEMENT IS REQUIRED.
  - NO WETLANDS, CRITICAL AREAS, ARCHAEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, OR HAZARDOUS MATERIALS EXIST ON THE SITE TO THE BEST OF OUR KNOWLEDGE.
  - ADT =
  - FLOOR AREA RATIO: PERMITTED = 0.20  
PROPOSED =  
(VARIANCE REQUESTED)
  - A.O.S. = NOT REQUIRED
  - LIGHTING SHALL BE DESIGNED TO CONFINE DIRECT LIGHT RAYS WITHIN THE SITE.
  - PARKING: REQUIRED 5 SPACES PER 1000 S.F.  
HARDWARE EXISTING = S.F. = SP.  
HARDWARE PROPOSED = S.F. = SP.  
GIFT/FLORAL SHOP = S.F. = SP.  
RES/OFFICE = S.F. = SP.
  - TOTAL REQUIRED SPACES =  
SPACES PROVIDED =  
(VARIANCES REQUESTED)

APPROVALS		
<p><b>Pc Ltd.</b>  <b>Patton Consultants, Ltd.</b>          305 W. CHESAPEAKE AVE., SUITE 305          TOWSON, MARYLAND 21204          (301) 296-2140 Fax: (301) 296-0419</p> <p>SITE PLANNERS • ENGINEERS          LAND DEVELOPMENT CONSULTANTS</p>		
<p>PLAT TO ACCOMPANY SPECIAL EXCEPTION          VARIANCE AND SPECIAL HEARING</p> <p><b>FOSTER BROTHERS          HARDWARE</b></p> <p>(93-316-SPNXXA)</p>		
<p>HEREFORD BALTIMORE COUNTY, MD</p>		
ELECTION DIST. 7	CENSUS TRACT 4071	COUNCILMANIC 3
DRAWN JDC	CHECKED J.S.P.	DATE
SCALE 1" = 20'		PROJ. NO. 0240
NORTH		SHEET NO.
		OF





**II. SPECIAL EXCEPTIONS REQUESTED**

A. Section 259.3(a)(2)(i). To permit for the 2-story brick building on the northeast corner, an existing front yard of 3 feet in lieu of the required 15 feet; and an existing side yard of 6 feet, and for a 1-1/2 story existing frame structure, an existing front yard of 7 feet in lieu of the required 11 feet and an existing side yard of 11 feet in lieu of the required 15 feet.

B. Section 259.3(a)(2)(ii). To permit a reduction in the amount of the required setback areas which must be landscaped to range from 0 feet to a maximum of 10 feet in lieu of the requirement to landscape the entire front, rear, and side setbacks. To permit the parking configuration as shown for purposes of maneuvering delivery trucks on the site.

C. Section 254.3(a)(2). A variance to accept a stone or gravel surface for portions of the parking lot to the rear/least side of the hardware store building as a suitable surface.

D. Section 409.83.2. A variance to permit 67 parking spaces in lieu of the required 88 spaces.

E. Section 413.2.1. To permit an identification sign not to exceed 230 sq. ft. (total, not sides) in lieu of the allowed 150 sq. ft. in area.

**III. SPECIAL HEARINGS REQUESTED**

A Special Hearing to allow for living quarters within a commercial building. To abandon the permit to park in a residential zone as previously granted under Special Hearing 75-158; and to find that the proposed development is in compliance with site design guidelines and performance standards for the Hereford plan.

- GENERAL NOTES**
- OWNERSHIP  
PARCEL 1: DONALD B. FOSTER & WIFE  
5334/358 - #0706045100  
PARCEL 2: DONALD B. FOSTER & WIFE  
7734/458 - #0706045500  
PARCELS TO BE COMBINED INTO ONE COMMON OWNERSHIP.
  - CENSUS TRACT: 4073
  - WATERSHED: 13 SUBWATERSHED: 81
  - ZONING: BM-CR
  - SITE AREA GROSS:  
PARCEL 1 = 11,966 sq. ft.  
PARCEL 2 = 8,049 sq. ft.  
COMBINED = 20,015 sq. ft.  
SITE AREA NET:  
PARCEL 1 = 9,747 sq. ft.  
PARCEL 2 = 5,419 sq. ft.  
COMBINED = 15,166 sq. ft.
  - EXISTING USES: PARCEL 1 CURRENTLY OCCUPIED BY HARDWARE STORE, GIFT SHOP AND FLORAL DESIGN SHOP, PLUS MISCELLANEOUS ACCESSORY STORAGE STRUCTURES.  
PARCEL 2 CONTAINS A RESIDENCE WITH PART-TIME OFFICE SUPPORT FOR THE HARDWARE STORE.
  - PROPOSED USES: PARCEL 1 - CONTINUED HARDWARE STORE, GIFT SHOP AND FLORAL DESIGN SHOP WITH 3,600 S.F. ADDITION TO HARDWARE STORE AND REMOVAL OF ACCESSORY STRUCTURES.  
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  - PROPOSED ZONING: SPECIAL EXCEPTION, VARIANCES, AND SPECIAL HEARINGS ARE REQUIRED AS DESCRIBED HEREON.
  - STORM WATER MANAGEMENT IS REQUIRED.
  - NO WETLANDS, CRITICAL AREAS, ARCHAEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, OR HAZARDOUS MATERIALS EXIST ON THE SITE TO THE BEST OF OUR KNOWLEDGE.
  - ADT -
  - FLOOR AREA RATIO: PERMITTED = 13,390 S.F. PROPOSED = 74,415 S.F. + 0.6
  - A.O.S. - NOT REQUIRED
  - LIGHTING SHALL BE DESIGNED TO CONFINE DIRECT LIGHT RAYS WITHIN THE SITE.
  - PARKING: REQUIRED 5 SPACES PER 1000 S.F.  
HARDWARE RETAIL = 12,000 S.F. = 60 SP.  
HARDWARE WAREHOUSE = 3 Employees = 3 SP.  
GIFT/FLORAL SHOP = 2,500 S.F. = 10 SP.  
RES./OFFICE = 250 S.F. = 3 SP.  
TOTAL REQUIRED SPACES = 82 SP.  
SPACES PROVIDED = 67 (VARIANCES REQUESTED)

**APPROVALS**

**93-316-SPHXA**

**PETITIONER'S EXHIBIT 2**

**Pc Ltd.**  
Patton Consultants, Ltd.  
305 W. CHESAPEAKE AVE., SUITE 305  
TOWSON, MARYLAND 21204  
(301) 296-2140 FAX: (301) 296-0419  
SITE PLANNERS • ENGINEERS  
LAND DEVELOPMENT CONSULTANTS

**PLAT TO ACCOMPANY SPECIAL EXCEPTION VARIANCE AND SPECIAL HEARING**

**FOSTER BROTHERS HARDWARE**  
16925 YORK ROAD

HEREFORD BALTIMORE COUNTY, MD

ELECTION DIST. 7	CENSUS TRACT 4071	COUNCILMANIC 3
DRAWN J.D.C.	CHECKED U.S.P.	DATE

SCALE 1" = 20'  
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SHEET NO. OF

